Comment Letter DFG

DFG

State of California
Memorandum

FEB 07 2006 00155

Date: February 7, 2006

To: Paul Marshall, South Delta Program Manager
Department of Water Resources
1416 Ninth Street, 2nd Floor, 215-30
Sacramento, CA 95814

From: Banky Curtis, Deputy Director
Habitat Conservation Division
Department of Fish and Game
1416 Ninth Street, 12th Floor
Sacramento, CA 95814

Subject: Department of Fish and Game Comments on the October 2005, South Delta Improvements Program Draft Environmental Impact Report/Statement

The Department of Fish and Game (Department) appreciates the opportunity to review and provide comments on the October 2005, South Delta Improvements Program Draft Environmental Impact Report/Statement (DEIR/S). Our comments are divided into two categories, general and specific. The general comments will be presented in the body of this memorandum with the specific comments in an attached table.

The South Delta Improvements Program (SDIP), as currently proposed, has been separated into two distinct "Stages" with Stage 1 consisting of the installation and operation of permanent gates (three agricultural barriers and one fish barrier), conveyance and spot dredging in selected channels, and the extension of up to twenty-four agricultural diversions. Stage 2 consists of the proposed increase of State Water Project (SWP) permitted pumping levels from 6,680 cfs up to 8,500 cfs. It is the Department's understanding that, until such time more information is produced by the Pelagic Organisms Decline Working Group (POD) on the reasons for the decline in the abundance of several pelagic species, the Department of Water Resources (DWR) will delay the implementation of Stage 2 of the SDIP.

San Joaquin River Basin Salmon: In addition to sharing the heightened concern over the decline of several pelagic organisms occupying the upper Sacramento-San Joaquin estuary, the Department is also very concerned about the future viability of Chinook salmon in the San Joaquin River basin. Therefore, we request additional analysis be included in the supplemental environmental documentation preceding a Stage 2 decision. **DFG-1**

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Abundance of the adult salmon runs in the basin's tributaries remain depressed despite extensive physical channel and habitat restoration work in the tributaries, increasingly restricted salmon harvest in ocean and inland waters, and ongoing implementation of the Vernalis Adaptive Management Program to meet water quality objectives in the Delta. Studies have documented consistently poor survival of salmon smolts migrating through the Delta in recent years. The specific mechanisms for this low survival remain unknown but it is clear that a) survival rates for San Joaquin fall-run smolts migrating through the south Delta are significantly lower than survival of Sacramento basin fall-run smolts migrating through the north and central Delta during the same season and b) extremely low survival of fall-run Chinook salmon migrating through the south Delta is a significant factor in the continued depression and decline in adult fall-run escapement in the San Joaquin tributaries.

As the DEIS/R points out, operation of the gate at the head of Old River **may help** increase the survival of these migrating salmon by reducing their movement into the south Delta via Old River, thus shunting them away from Central Valley Project (CVP) and SWP export facilities and keeping a greater proportion of flow in the San Joaquin River channel, to facilitate their downstream movement. However, it is not clear to us that this gate will be operated throughout the juvenile salmon out migration period and thus it may not contribute to resolving the many problems, such as inadequate flows, confused hydrodynamics in Delta channels causing delays in migration, and poor water quality affecting these juvenile salmon as they migrate to and through the Delta. We also have concerns that even with the operational flexibility afforded by a permanent head of Old River gate, there may be circumstances when listed species such as delta smelt will govern how the gate needs to be operated, diminishing any potential benefits for San Joaquin salmon. DFG-2

The Department and others are interested in eliminating the factors limiting San Joaquin salmon survival and recovery of healthy production levels in all water years. The Department, as well as the federal fishery agencies and stakeholders, continue to seek habitat improvements and flow enhancements in tributary watersheds essential for the recovery and long-term viability of anadromous species. The Department recently presented its views on the importance for salmon of spring San Joaquin River flow into the Delta during State Water Resources Control Board's workshops as part of periodic review of the Bay Delta Water Quality Control Plan and expects to continue seeking improvements. DFG-3

We must continue to investigate the factors affecting survival of salmon smolts in the Delta and upstream migration of adult salmon into the San Joaquin basin. Existing and newly obtained information must then be applied both to operation of permanent gates and to future analyses and Stage 2 decisions regarding the operational component of the SDIP. DFG-4

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The Department looks forward to working with DWR, Reclamation, and others to achieve meaningful progress on this topic, as well as on the pelagic organism decline, in anticipation of a future Stage 2 SDIP decision and associated permitting on the operational component. DFG-4

The Department requests that DWR develop a series of avoidance, minimization or mitigation measures that can be implemented should a conflict develop between fish and wildlife resources as a result of either the operation or non-operation of the SDIP structural components. These measures should be designed so that they offset the impacts arising from conflicting environmental needs imposed or exacerbated by the SDIP and the operation of the gates and their interaction with the existing or increased level of pumping during Stage 2. DFG-5

Adaptive Management: Adaptive Management in the document refers to both a real-time management scheme for operations (e.g. page 5.2-28) and a process for modifying mitigation measures (e.g. 6.1-114). Prior to relying on "Adaptive Management" as an environmental commitment or a mitigation measure, the Department requests that more specificity be added to the EIR on all parts of the adaptive management framework in response to the following:

1. The conceptual models for fish species in Chapter 6 are very comprehensive, but are quite broad and do not show how the specific operations of the gates and pumps will be studied, including whether or not the Department's existing monitoring program for gate operations is deemed incorporated, whether additional uncertainties are to be addressed, and what other monitoring programs will be carried out relative to those uncertainties. DFG-6

2. What parameters and resources will be monitored? What data reporting, analysis, and synthesis systems will be instituted?

3. What are the decision-making systems and how will monitoring information be used? Specifically, the process for final decision making regarding gate operations needs to be defined. The existing document (e.g. pages 2-29 and 2-30) refers to a Gate Operations Review Team with representatives from DWR, the US Bureau of Reclamation, the US Fish and Wildlife Service, the National Marine Fisheries Service, the Department, and "possibly others as needs change." However, the document does not explain whether recommendations from the fisheries agencies with respect to gate operations, particularly head of Old River gate operations ostensibly to benefit species, are advisory or binding. In the event of conflicts between water level, water quality and fish resources, whether or not the advice of the Department and other trustee agencies for fish and wildlife must be followed will determine the degree to which the impacts of operations could adversely affect fish and wildlife.

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The document states the SDIP effectiveness monitoring and relevant monitoring (and research) will be conducted by the CALFED Science Program to evaluate the effectiveness of compliance mitigation measures. The Department believes the SDIP monitoring program should be consistent with the CALFED process but not rely on it. Given the independent nature of the CALFED Science Program and uncertainties regarding program funding and priorities, it does not appear that reliance on the Science Program to conduct this type of compliance monitoring is feasible or appropriate. As the lead agencies on the Project, DWR and Reclamation are responsible for developing and implementing a project-specific monitoring program. DFG-7

Article 21: The Department is requesting the assumptions and modeling regarding Article 21 deliveries be updated to accurately reflect the extent, timing, and impacts of those Article 21 deliveries on species. DFG-8

Intertie: The Department is requesting that DWR conduct and include an analysis of the potential impacts associated with the implementation and operation of the Intertie as it relates to SWP and CVP joint operations. This analysis should acknowledge that even without a change in the authorized pumping level of the CVP, the Intertie could potentially change the timing and amount of CVP deliveries above historic export amounts by wheeling CVP water over to the California Aqueduct at a point before the existing constriction in the Delta Mendota Canal as a result of subsidence. In addition, the Department would also like to see an analysis conducted that looks at potential impacts associated with the SWP moving water to the Delta Mendota Canal. DFG-9

SDIP EIR/S and the Action Specific Implementation Plan: The comments provided in this memorandum and its attachment should also be incorporated in the Action Specific Implementation Plan (ASIP) for the SDIP. The ASIP forms the foundation for the department's proposed Natural Community Conservation Plan (NCCP) approval and permit on the Stage 1 decision. And, while there is a separate process to develop the SDIP ASIP, it is important to keep these two documents tied closely together. We look forward to working with DWR to develop conservation and minimization measures that, when implemented, will ensure the species covered in the NCCP are adequately conserved. DFG-10

Future Comments on the Implementation of Stage 2: It is our understanding the comments we are providing on the Stage 1 portion of the SDIP, will not preclude the Department from providing further comments on the "Stage 2" component of the SDIP and any inter-related Stage 1 component operations. Moreover, incidental take coverage for the proposed Stage 2 of the SDIP will require that DFG, as a Responsible Agency under the California Environmental Quality Act, have an opportunity to review, comment, and ensure that conservation measures are adequate to conserve and manage covered species. DFG-11

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This could include, for example, amending the NCCP on Stage 1. If our understanding of the review process for the Staged Components of the SDIP is incorrect please advise us immediately.

This memorandum, together with the attached table, concludes the Department's comments on the SDIP DEIR/S. Thanks again for the opportunity to review and comment. If you have any questions regarding the contents of this memorandum please contact Mr. Jim Starr of my staff directly at 209-942-6070 or email him at jstarr@delta.dfg.ca.gov.

Attachment

cc: **Department of Fish and Game**
Sacramento
Dr. Diana Jacobs
Ms. Tina Cannon
Mr. Jim White
Mr. Scott Cantrell

Central Valley Bay Delta Branch
Dr. Perry Herrgesell
Mr. Frank Wernette
Mr. Jim Starr

San Joaquin Valley - Southern Sierra Region 4
Mr. Bill Loudermilk
Ms. Patricia Brantley
Mr. Dean Marston
Mr. Dale Mitchell

US Fish and Wildlife Service - Sacramento
Mr. Ryan Olah

National Marine Fisheries Service - Sacramento
Mr. Jeffery Stuart

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SDIP Draft EIR/S
Comment Form

	Comment Number	Volume/ Page Number	Line, Figure, or Table No.	Comment	Suggested Resolution
DFG-12	1	1a/ES-4	Physical/Structural Component Actions; second bullet	Delete the word "inefficient", so that it reads as follows: Replace ~~inefficient~~ seasonal barriers with permanent operable flow control gates on Middle River, Grant Line Canal, and Old River	
DFG-13	2	1a/ES-5	3rd paragraph	The first sentence states DWR and Reclamation are proposing SDIP as a "self-mitigating project". We suggest you don't use this term and instead state that significant adverse impacts will be fully mitigated to a level of less-than-significant.	
DFG-14	3	1a/ES	Table ES-3	The table should include costs for the SDIP monitoring program and science needs in addition to the fishery investigations already included in the table.	
DFG-15	4	1a/1-10	Ongoing Protection of Fish Resources and Other Environmental Resources	This section only discusses Central Valley fall- and late fall-run Chinook salmon. The export facilities also impacts winter-run and spring-run Chinook salmon, as well as, steelhead and delta smelt.	This section should be expanded to include these and other fish species that occur in the Sacramento-San Joaquin Delta.
DFG-16	5	1a/1-11	South Delta fish Protection; 2nd paragraph	The second sentence states that the "barrier is installed and operated April through mid-June and possibly extended to July 1". This is not correct.	Revise to read as follows: "barrier is installed and operated April through mid-~~June~~ *May* and possibly extended to ~~July~~ June 1".

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	Comment Number	Volume/ Page Number	Line, Figure, or Table No.	Comment	Suggested Resolution
DFG-17	6	1a/1-15	Recent Fish Declines in the Delta and Estuary; 1st full paragraph on page	This section needs to be updated to reflect the current status of the POD studies.	Update with current information.
DFG-18	7	1a/1-15	Recent Fish Declines in the Delta and Estuary; 2nd full paragraph on page; 1st sentence	Reword sentence as follows: Scientific Studies, such as described above, are *underway* ~~needed~~ to determine the cause of the decline in pelagic fish.	
DFG-19	8	1a/1-15	Recent Fish Declines in the Delta and Estuary; 2nd full paragraph on page; 4th sentence	Delete the sentence beginning "Although" to the end of the paragraph.	These statements do not belong in this section. In addition, DWR and Reclamation are participants, not the sole investigators, in the investigation of pelagic species decline
DFG-20	9	1a/1-30	Effects on South Delta Water Users	The option of using low head pumps was taken off the table by DWR early in the negotiations and has not been evaluated by the DFG as a component of the South Delta Improvements Program.	Remove the entire second paragraph in this section.

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	Comment Number	Volume/ Page Number	Line, Figure, or Table No.	Comment	Suggested Resolution
DFG-21	10	1a/2-4	Decision Stages	It would improve the document to clarify the decision stages of SDIP, particularly the Stage 1 decision. The Stage 1 decision will clarify regulatory approval to pump at 6680 cfs along with the construction and operation of permanent gates.	Describe the project as occurring in stages and define the components of each stage. Stage 1 - installation and operation of gates and Stage 2 increased exports to 8,500 cfs.
DFG-22	11	1a/2-15	1st full paragraph	The text characterizes water transfers as potentially resulting in indirect effects in the Delta. During IWOFF meetings some members argued that water transfers should be analyzed as a direct impact in the delta. Was a consensus view reached? How were these opposing views reconciled?	
DFG-23	12	1a/2-23	Gate Design and Construction Detail; 2nd paragraph; last sentence	See comment number 9	Remove this sentence
DFG-24	13	1a/2-29	Last Paragraph; 2nd sentence	Edit: "...to minimize impacts ~~of~~ on resident threatened and endangered species ..."	
DFG-25	14	1a/2-39	Table 2-7	The table should include costs for the SDIP monitoring program and science needs in addition to the fishery investigations already included in the table.	
DFG-26	15	1a/2-50	Environmental Training; last paragraph	The end of the Environmental Training section beginning with, "DWR would operate the gates...", contains information relevant to boating awareness and does not belong in this section.	Move this entire section and associated bullets to a new section titled "Boater Awareness"

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	Comment Number	Volume/ Page Number	Line, Figure, or Table No.	Comment	Suggested Resolution
DFG-27	16	1a/3-9	Mitigation Measures	The text states that not all of the CALFED Programmatic EIS/EIR mitigation measures will be implemented as part of SDIP.	It would clarify matters to say only those CALFED programmatic-level mitigation measures that are relevant to SDIP have been incorporated into the SDIP EIS/R.
DFG-28	17	Ia/4	Table 4-1	Fish Impact 38: "beneficial impact" of contaminant spills (after mitigation) to green sturgeon appears to be a typographical error.	Correct error.
DFG-29	18	Ia/4	Table 4-1	Fish Impact 46 and associated mitigation implies there is no potential for impact to migrating juvenile salmon from the San Joaquin Basin in the period prior to April 15.	Sampling at Mossdale on the SJR indicates that on average from 1988-2004, 17 percent of juveniles migrating downstream into the Delta from mid-March through mid-June do so prior to mid-April and about 10 percent do so after May 31. The VAMP period covers 31 days in mid-April to mid-May. Hence, the proposed mitigation from May 16 – May 31 fails to alter operations-related effects on more than a quarter of the migrating salmon population, on average.
DFG-30	19	Ia/4	Table 4-1	Fish Impact 47: Potential increased entrainment risk for the juvenile winter-run and spring-run Chinook should also be recognized as occurring in January and February.	-

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	Comment Number	Volume/ Page Number	Line, Figure, or Table No.	Comment	Suggested Resolution
DFG-31	20	1a/4	Table 4-1	Also the Level of Significance and the determination of a Beneficial Impact as indicated for effects of Gate Operation on Juvenile and Adult Chinook salmon, Steelhead, Striped bass, Splittail, Green Sturgeon migration and, Delta smelt spawning and rearing habitat and entrainment is misleading and no substantial supporting evidence.	Provide a better analysis/assessment of the impacts and develop a Threshold of Significance for SJR Fall-run Chinook salmon.
DFG-32	21	1a	Figure 4-2	Figure 4-2 does not conform to the text on pages 4-7 through 4-9. It appears that the legend and bars on the right side of the figure (SDIP Additional Delta Exports) have got CVP and SWP labeled backwards. The additional exports described in the text and figure do not exactly match the quantities in Tables 5.1-5a through 5.1-7b either (for example, compare SWP Table A and Article 21 additional deliveries for Alternative 2C, as described in: Table 5.1-7b; the text on page 4-8; and, as shown in Figure 4-2). Also, it would clarify information in the Figure 4-2 to add "SWP/CVP combined exports" as a footnote to "SDIP Additional Delta Exports" in the legend and in the title.	

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	Comment Number	Volume/ Page Number	Line, Figure, or Table No.	Comment	Suggested Resolution
DFG-33	22	1b/5.1-4	Table 5.1-1	The CALSIM assumptions used for Article 21 demand described in Table 5.1-1 (and Table 5.1-50) are lower than what is being used for the LT EWA EIS/R. For example, the higher Article 21 demand impacts one existing mechanism for fish protection, EWA, by constraining EWA winter fish actions, reducing EWA's ability to spill debt (thereby increasing EWA debt), and increasing the level of pumping that must be offset by EWA (thus requiring EWA to acquire more assets without any increased level of fish protection). This issue was the subject of numerous IWOFF and WOMT meetings in the spring/summer 2005. Article 21 demands have increased significantly in recent years and the time period of Article 21 deliveries is broader than the November-March period. If the SDIP document is not updated to represent these higher Article 21demands it will under-represent the impact on fish species of existing 6680 pumping. Updated information regarding this higher Article 21 demand will be needed for both the EIS/R and the ASIP.	
DFG-34	23	1b/5.1-4	Table 5.1-1; p. 6 of 6	Under EWA, shouldn't EWA fish actions and assets be shown for each SDIP scenario?	
DFG-35	24	lb/5.1-36	Table 5.1-4, etc.	The differences in part C of this and other similar tables are calculated as (part B minus part A), not as (A-B) as indicated.	Correct the table legend.

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	Comment Number	Volume/ Page Number	Line, Figure, or Table No.	Comment	Suggested Resolution
DFG-36	25	Ib/5.1-50	Article 21	The first paragraph states the CALSIM model assumed a monthly maximum Article 21 delivery of 50 TAF to MWD and an additional 84 TAF to Kern County. The second paragraph states the maximum possible Article 21 deliveries are 536 TAF/yr, if full monthly deliveries are made in 4 out of 5 months. In Table C2.4 (SWP Article 21 target demands) of the Benchmark Studies Assumptions, Appendix C2, it states MWD's target demand is 200 TAF and others demand is 1008 TAF. The maximum SWP's contractors' Article 21 demands are 1208 TAF/yr. Why are the Article 21 demands described in the EIS/R and Benchmark Studies Assumptions different?	
DFG-37	26	Ic/6.1-3	Summary of Significant Impacts; last sentence	DFG does not accept the proposal that "if these facility upgrades and procedural changes are determined to be equivalent to the avoidance and crediting system described above, these salvage facility and procedural changes may be substituted for the pumping restrictions as alternative cost-effective mitigation"	Delete this sentence. DFG believes that any changes made to the export facilities will not substitute for operations restrictions that are implemented. Impacts to salvageable sized fish may benefit; however those smaller life stages will not benefit from changes to the facility and procedures.

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	Comment Number	Volume/ Page Number	Line, Figure, or Table No.	Comment	Suggested Resolution
DFG-38	27	Ic/6.1-27	Delta Smelt; 1st paragraph; last sentence	This statement sound like it is predetermining if the project has an effect on a delta smelt prior to it being evaluated.	Reword as follows: To the extent of salinity intrusion into the Delta, as represented by the change in *the* location of X2, will be evaluated to *determine if there is an* ~~confirm minimal~~ effect on spawning habitat.
DFG-39	28	Ic/6.1-43		The estimation for impact level of entrainment loss compared to the estimated annual Juvenile Chinook salmon expected to enter the Delta was a combination of Sac and San Joaquin river systems.	Separately evaluate entrainment impacts upon SJR salmon population
DFG-40	29	1c/6.1-83	3rd full paragraph	This paragraph is very hard to understand. It needs to be clarified and it may also help to include a graphical figure.	
DFG-41	30	1c/6.1-114		The text states that SDIP effectiveness monitoring and relevant monitoring (and research) will be conducted by the CALFED Science Program to evaluate the effectiveness of mitigation measures.	Comment: This approach is suggestive of the CALFED CMARP, which has never been fully developed. We don't think SDIP should depend on the Science Program to conduct this type of compliance monitoring nor do we believe it is appropriate. DWR and Reclamation are responsible for developing and implementing the monitoring program.

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	Comment Number	Volume/ Page Number	Line, Figure, or Table No.	Comment	Suggested Resolution
DFG-42	31	1c/6.1-114	Last # on page, top of page 6.1-115	The text states that resource agencies may also recommend modifications [to mitigation measures] to DWR and Reclamation for review. If DWR and Reclamation concur with the proposed modifications, they will be implemented.	Comment: We suggest you revise this statement. If such changes to mitigation measures are required to avoid the permitted level of take of covered species or to avoid jeopardy, they are non-discretionary.
DFG-43	32	IIb, Appendix J-18	Paragraph 2	4,600 + 10,300 = 14,900, not 15,900.	Please correct the text.
DFG-44	33	IIb, Appendix J-23 and 29	J-23, Para. 2 J-29, Para. 5	The fraction of particles passing Chipps Island provides an estimate of fish survival only if entrainment is the only source of mortality.	Provide an explanation of important limitations in the interpretation of PTM results. (This is not to say the PTM approach has no value.)
DFG-45	34	IIb, App, J-29	J-29, Para. 6	The text suggests that real fish may be even "smarter" than the trained active particles and be more successful in avoiding entrainment using behaviors in addition to tidal surfing. This may be true. But it may also be true that the advantages of tidal surfing implied by active particle PTM results may be overstated because the fish being represented by the particle may not simply be navigating from point A in the direction of point B at the maximum rate possible. For example, the need to physiological adjust to increasing salinity for a fish moving from the Delta to the lower estuary may constrain the rate of travel relative to that of a surfing particle.	Provide appropriate caveats to interpretation of model results.

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	Comment Number	Volume/ Page Number	Line, Figure, or Table No.	Comment	Suggested Resolution
DFG-46	35	IIb, App. J-34	J-34, last Para.	The Delta Smelt Equivalents calculation may be the first ever done. Necessarily it requires some simplifying assumptions. The approach may have value but seems to suffer from at least one obvious problem in assuming that daily or monthly mortality is constant among the various life stages over the course of a year. More likely the mortality rate of adult fish in much lower than that of newly-hatched larvae. Survival rate should increase as the larvae grow to be juveniles and then sub-adults.	We recognize that robust data on stage specific mortality rates are lacking. Bennett (2005) made some estimates. At least explain how deviations from this and other simplifying assumptions used in your method could affect your results and conclusions.
DFG-47	36	2b/J-34	Delta Smelt Equivalents; 1st sentence	The text states: Although delta smelt were not a species of interest in 1986, they are of great interest now. Comment: This is a value-laden statement that should be revised.	Delete fish sentence

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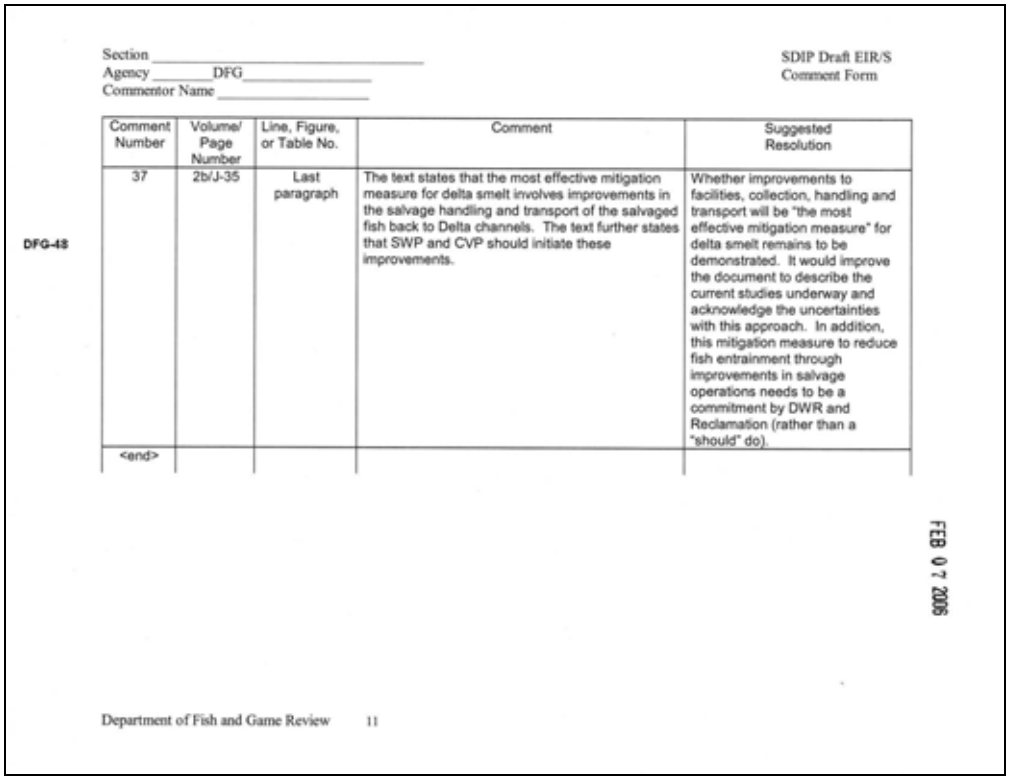

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37	2b/J-35	Last paragraph	The text states that the most effective mitigation measure for delta smelt involves improvements in the salvage handling and transport of the salvaged fish back to Delta channels. The text further states that SWP and CVP should initiate these improvements.	Whether improvements to facilities, collection, handling and transport will be "the most effective mitigation measure" for delta smelt remains to be demonstrated. It would improve the document to describe the current studies underway and acknowledge the uncertainties with this approach. In addition, this mitigation measure to reduce fish entrainment through improvements in salvage operations needs to be a commitment by DWR and Reclamation (rather than a "should" do).
<end>				

DFG-48

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Responses to Comments

DFG-1

The potential benefits of the head of Old River fish control gate on the population of the fall-/late fall–run Chinook salmon in the San Joaquin River tributaries have been fully described in Section 6.1 of the SDIP Draft EIS/EIR. No additional information is needed for the evaluation of Stage 2 operational scenarios. Any new information from the evaluation and assessment of VAMP, river habitat restoration actions, and improved salvage facilities and handling procedures will be included in the Stage 2 evaluations.

DFG-2

Please see Master Response O, *Gate Operations Review Team*.

DFG-3 and DFG-4

The efforts of DFG to improve habitat conditions in the San Joaquin and south Delta and to investigate the pelagic organism decline are recognized. Involvement of DFG in the Stage 2 decision process is anticipated.

DFG-5 and DFG-6

Please see Master Response O, *Gate Operations Review Team*.

DFG-7

DWR will not rely solely on CALFED Science monitoring and research. DWR and Reclamation will use the existing salvage monitoring and other ongoing IEP monitoring programs and results from the additional support being given to IEP for POD investigations. DWR and Reclamation are not proposing additional monitoring and research. Specific mitigation of Stage 2 entrainment impacts is described in Section 6.1 of the SDIP Draft EIS/EIR. The possibility that future CALFED Science Program evaluations, IEP studies, or POD investigations may identify more effective mitigation measures, and that these may be substituted for the expanded EWA or the "avoidance and credit" alternative mitigation measures, is also described in Section 6.1. The proposed mitigation measures are independent of CALFED Science Program funding, and would be replaced only if more effective mitigation is identified in future studies.

DFG-8

Please see Master Response P, *Effects of the South Delta Improvements Program on State Water Project Article 21 Deliveries*.

DFG-9

The effects of the DMC–California Aqueduct Intertie project are not evaluated as part of the SDIP because the Intertie is a separate project, which has been and is being evaluated independently. However, the cumulative effects of the SDIP, including Intertie, are evaluated in Chapter 10 of the SDIP Draft EIS/EIR.

DFG-10

The SDIP Draft EIS/EIR was developed concurrently with the SDIP Action-Specific Implementation Plan (ASIP). Comments received from DFG that are applicable to the ASIP have also been addressed in the ASIP.

DFG-11

During the Stage 2 decision-making process, DWR and Reclamation will provide a document pursuant to CEQA and NEPA for public and agency comment. This

will provide a second opportunity for discussions and comments regarding the operational component of the SDIP.

DFG 12

The adjective *inefficient* is used in this sentence to describe briefly the inadequacy of the temporary rock barriers used currently in the south Delta. These temporary structures inefficiently move water upstream during a flood tide. Consequently, the inefficient water movement causes some stagnation of the water in Middle River and Old River near the city of Tracy. Stagnation in turn causes water quality problems in the form of low DO, which is bad for fish, and higher salinity, which may be detrimental for agricultural uses.

The proposed permanent gates transfer water much more efficiently because the structure does not restrict tidal flow when the gates are open, thus allowing greater volumes of water to circulate the south Delta.

The use of the adjective in this sentence will remain because it describes the project action appropriately.

DFG 13

In an executive summary it is sometimes useful to use succinct phrases to convey one's point. In this phrase we simply meant to convey that mitigation was a part of the project in addition to the project objectives. Admittedly, this simple statement does not describe the conditions in which the project will mitigate and to what degree those mitigation actions will be effective. Details of mitigation are left for later chapters. The use of "self-mitigating" as a simple description of project intent will remain.

DFG-14

The costs of all aspects of the project mitigation monitoring and science needs are included in the overall costs presented in Table ES-3 of the SDIP Draft EIS/EIR. Additional monitoring and science needs are included in the ASIP to meet the requirements of the California Endangered Species Act (CESA). The costs of these additional science needs are presented in Table 2-5 of the SDIP ASIP.

DFG-15

The SDIP clearly has potential impacts on species other than fall-run Chinook salmon. While the section referred to (1a/1-10) does refer to fall-run Chinook

salmon, many other sections of the document address the needs of other fish species.

DFG-16

The text has been revised per your comment.

DFG-17

Please see Master Response B, *Relationship between the South Delta Improvements Program and the Pelagic Organism Decline*.

DFG-18

The text has been revised per your comment.

DFG-19

The purpose of the document is not simply to describe project elements and impacts but to describe interaction between project elements and other efforts. It was our attempt to describe how the SDIP interacted with the POD studies. This sentence was included to add clarity to project elements in light of the studies described in this section. The sentence is not factually incorrect and will remain.

DFG-20

DWR and Reclamation intend to construct the gates so that they are compatible with actions that may become necessary in the future, such as the operation of low head pumps. Should low head pumps be needed at these gates, additional compliance with CEQA, NEPA, CESA, and ESA may be required.

DFG-21

The text on page 2-4 does describe elements in each stage of the SDIP. To clarify the elements in this section:

Stage 1 will include:

1. Making a decision involving the physical/structural component or to continue installing the temporary barriers. Of the options available, we could do nothing or we could construct some permanent facilities. If permanent

facilities were to be constructed, the existing SWP and CVP operation rules are assumed to be continually in effect.

i. The "Do Nothing" option would assume the continual use of existing SWP and CVP operational rules, including the permitted limit for SWP diversions at CCF, plus continued installation of temporary barriers in the south Delta

ii. The decision involving the physical/structural component would include dredging specified in the project, extensions of 24 agricultural diversions, and select from one of the following options:

   a. One gate at the Head of Old River

   b. Three gates, Head of Old River, Old River near Tracy, and Middle River;

   c. Four gates, Head of Old River, Old River near Tracy, Middle River, and Grant Line Canal;

Stage 2 will include a decision either to continue with existing SWP and CVP operation rules or to select a method of changing the operational rules to meet project objectives. Because DWR and Reclamation have committed to present a second environmental document for Stage 2, the range of potential operational rules remains open. If the Stage 1 decision is to continue the installation of the temporary barriers, proceeding with Stage 2 and addressing both the physical/structural component and the operational component would be considered.

DFG-22

The SDIP Stage 2 operational decision may allow more water transfers through the Delta during the months of July–September because the unused permitted pumping capacity will be greater than under current conditions during these months of relatively low fish density. The potential effects on fish entrainment, Delta salinity, and other environmental resources that might be affected by these potential transfers were evaluated. The differences among direct effects, indirect effects, and cumulative effects are difficult to define and may not have been resolved at the Integrated Water Operations Forum & Framework (IWOFF) meetings. However, based on the best available information, DWR and Reclamation have attempted to estimate the effects of transfers. Section 5.1 of the SDIP Draft EIS/EIR describes these potential impacts as indirect project effects, which must be mitigated.

DFG-23

DWR and Reclamation intend to construct the gates so that they are compatible with actions that may become necessary in the future, such as the operation of

low head pumps. Should low head pumps be needed at these gates, additional compliance with CEQA, NEPA, CESA, and ESA may be required.

DFG-24

The text has been revised per your comment.

DFG-25

The costs of all aspects of the project monitoring and science needs are included in the overall costs presented in Table ES-3 of the SDIP Draft EIS/EIR. Additional monitoring and science needs are included in the ASIP to meet the requirements of CESA. The costs of these additional science needs are presented in Table 2-5 of the SDIP ASIP.

DFG-26

The text has been revised per your comment.

DFG-27

The text has been revised per your comment.

DFG-28

Typographical error acknowledged. No beneficial impact on green sturgeon is expected.

DFG-29 and DFG-30

Please see Master Response E, *Reliance on Expanded Environmental Water Account Actions for Fish Entrainment Reduction.*

DFG-31

Improvements to the fish barrier at the head of Old River are expected to improve the exclusion of fish from Old River relative to the exclusion provided by the existing temporary structure. However, the head of Old River gate will be operated primarily to exclude juvenile fall-run Chinook salmon. Therefore

effects on steelhead, splittail, striped bass, and delta smelt have been characterized as "No Impact" in the summary of impacts Table 4-1 of the SDIP Draft EIS/EIR because there are no analytical tools to determine the extent of benefit to these fish.

DFG-32

The summary text describes changes in deliveries for CVP and SWP for both 2001 and 2020 conditions, while Figure 4-2 of the SDIP Draft EIS/EIR is specific for 2020 conditions. However, the values in Figure 4-2 are difficult to match with the tables in Section 5.1. The values in Figure 4-2 are exports on the left, but deliveries on the right. This has been clarified in the revised Figure 4-2.

DFG-33

Please see Master Response P, *Effects of the South Delta Improvements Program on State Water Project Article 21 Deliveries*.

DFG-34

The EWA fish protection actions were developed for each water year type in the baseline condition CALSIM simulations. These same protections (level of pumping during 1-week periods of protection) were then held constant for each alternative. Therefore, the entrainment effects during weeks of simulated protection were held constant, and entrainment impacts would occur only in weeks without specified protections. The entrainment impact analysis considered only the increased pumping simulated each month outside these specified EWA protection periods.

DFG-35

Your comment is correct. The affected tables in Section 5.1 should be labeled as "B–A".

DFG-36

Please see Master Response P, *Effects of the South Delta Improvements Program on State Water Project Article 21 Deliveries*.

DFG-37

The current SDIP-proposed mitigation for Stage 2 effects includes the modification of operations, either through the long-term EWA or through the Avoidance and Crediting System described in Section 6.1 of the SDIP Draft EIS/EIR. No other mitigation is proposed at this time.

DFG-38

The sentence on page 6.1-27 has been changed as suggested.

DFG-39

Adults from each system were estimated from escapement and then juveniles estimated from assumptions in Table 6.1-2 of the SDIP Draft EIS/EIR. San Joaquin adult Chinook salmon production is shown in Table J-20. Runs cannot be distinguished in the salvage data; therefore we have no information to directly separate entrainment. The assumption that the Chinook salmon juvenile salvage is dominated by San Joaquin River fish is based on the correspondence of the high salvage density with periods of greatest trawling catches at Mossdale. It appears that a large fraction of the San Joaquin River fish end up in the CVP and SWP salvage.

DFG-40

Pleas see Master Response E, *Reliance on Expanded Environmental Water Account Actions for Fish Entrainment Reduction*.

DFG-41

The text in SDIP Draft EIS/EIR Section 6.1, Fish, has been modified to state that DWR and Reclamation would implement a mitigation monitoring program consistent with the CALFED Science Program.

DFG-42

Acknowledged. Required mitigation measures are non-discretionary.

DFG-43

The text has bee corrected.

DFG-44 and DFG-45

The limitations on interpreting Particle Tracking Module (PTM) results for fish entrainment assessment are described in the text of Appendix J. The differences between passive and active fish behavior are described. Actual fish behavior is not well understood, so the particle tracking provides only a partial evaluation of fish entrainment risk.

DFG-46

The delta smelt adult equivalent calculations are used only as an example for interpreting entrainment impacts. Before delta smelt loss calculations could be included in the four-pumps agreement procedures for estimating mitigation for entrainment losses, additional investigation and quantification of delta smelt life history (e.g., growth and mortality rates) would be required.

DFG-47

Sentence on page J-34 was removed as suggested.

DFG-48

These mitigation measures are introduced as suggestions of changes in operations and facilities that could be used in addition to EWA actions. However, the current SDIP proposed mitigation for Stage 2 effects includes the modification of operations, either through the expanded long-term EWA or through the Avoidance and Crediting System described in Section 6.1 of the SDIP Draft EIS/EIR. No other mitigation is proposed at this time. The improvement in salvage handling and transport is regarded as a potentially effective mitigation measure that may be proposed in the Stage 2 decision document. These are currently being studied by DWR, Reclamation, and DFG.

Comment Letter DPC

STATE OF CALIFORNIA—THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, *Governor*

DELTA PROTECTION COMMISSION
14215 RIVER ROAD
P.O. BOX 530
WALNUT GROVE, CA 95690
Phone (916) 776-2290
FAX (916) 776-2293
E-Mail: dpc@citlink.net Home Page: www.delta.ca.gov

DPC

FEB 09 2006 00173

February 6, 2006

Department of Water Resources
South Delta Branch
Draft EIS/EIR Comments
1416 Ninth Street, Second Floor
Sacramento, California 95814

U. S. Bureau of Reclamation
Mid-Pacific Region
Draft EIS/EIR Comments
2800 Cottage Way
Sacramento, California 95825

Dear Project Managers:

SUBJECT: South Delta Improvements Program, Draft EIS/EIR

Staff of the Delta Protection Commission (Commission) has reviewed the subject document and a determination has been made that the project is located in portions of both the Primary and Secondary Zones of the Legal Delta.

The following comments are provided for your consideration based on the assumption that the project proposal under review at this time is for the physical/structural component of the South Delta Improvement Program. It is further assumed, from the documentation provided, that the operational component, which includes raising the permitted diversion limit into the State Water Project Clifton Court Forebay from 6,680 cfs to 8,500 cfs, will be addressed in a separate process, including the opportunity to comment.

Pursuant to the Delta Protection Act (Act), approvals for projects in the Primary Zone shall take into consideration consistency with the provisions of the Land Use and Resource Management Plan for the Primary Zone of the Delta (Management Plan). Additionally approvals for projects in the Secondary Zone should address any potential impacts to the Primary Zone resulting from a project in the Secondary Zone.

The Act was passed into law in 1992 in recognition of the increasing threats to the resources of the Primary Zone from urban and suburban encroachment having the potential to impact agriculture, wildlife habitat, and recreation uses. The Management Plan was completed and adopted by the

FEB 09 2006 00173

Commission, pursuant to the Act, and it sets out findings, policies, and recommendations resulting from background studies in the areas of environment, utilities and infrastructure, land use, agriculture, water, recreation and access, levees, and marine patrol/boater education/safety programs. The Commission serves as an appeal body in the event the actions of a regulatory entity on a project within the Primary Zone are challenged as being inconsistent with the Act or the Management Plan.

Your attention is called to the following Management Plan Policies (P) and Recommendations (R) for environmental review consideration. Also provided are comments that reflect discussions and observations of DPC staff involving recreational boating and marina operator organizations.

Environment

Feasible steps to protect and enhance aquatic habitat should be implemented as may be determined by resource agencies consistent with balancing other beneficial uses of Delta resources (R-4). **DPC-1**

Public-owned land should incorporate, to the maximum extent feasible, suitable and appropriate wildlife protection, restoration and enhancement as part of a Deltawide plan for habitat management (R-5).

Documentation should be provided as to potential impacts to the control of invasive aquatic weeds, including required time windows consistent with other appropriate regulatory entities.

Utilities and Infrastructure

The operation of draw and swing bridges (or other similar structures) shall balance needs of land and water traffic. Commercial vessels and emergency road traffic shall have right-of-way over other traffic (P-7). **DPC-2**

Materials dredged from Delta channels should, if feasible, be stored at upland sites for reuse for levee maintenance and repair, and other feasible uses in the Delta. Mitigation for potential impacts to wildlife caused by storage of dredged materials should be provided (R-4).

Potential increases to impacts to levee stability and maintenance due to dredging and other maintenance related to gate operations should be identified and addressed.

Land Use

Subsidence control shall be a key factor in evaluating land use proposals (P-6). **DPC-3**

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Documentation should be provided as to how the operation of the gates will take into consideration the priority for emergency response programs. DPC-3

The analysis leading to the selection of specific gate locations should take into consideration the potential for population growth in pertinent areas of the Delta.

Agriculture

Governmental entities shall support long-term viability of commercial agriculture in the Delta because of its economic and environmental importance to the State and local communities (P-4). DPC-4

Governmental entities shall encourage management of agricultural lands which maximize wildlife habitat seasonally and year-round, through techniques such as sequential flooding in fall and winter (P-8).

Water

Government entities shall ensure that design, construction, and management of any flooding program to provide seasonal wildlife habitat on agricultural lands shall incorporate "best management practices" to minimize mosquito breeding opportunities and shall be coordinated with the local vector control districts (P-2). DPC-5

Water agencies at the local, state, and federal levels shall work together to ensure that adequate Delta water quality standards are set and met and that beneficial uses of state waters are protected consistent with Water Code Section 12310(f) (P-3).

Delta waterways should continue to serve as a primary transportation system moving water to the State's natural and developed water systems (R-1).

Delta water rights should be respected and protected (R-2).

Programs to enhance the natural values of the State's aquatic habitats and water quality to benefit the Delta and should be supported (R-3).

Water for flooding to provide seasonal and year-round wildlife habitat should be provided as part of state and federal programs to provide water for wildlife habitat (R-5).

State and federal water projects are beneficiaries of Delta waterways and levees, therefore, the projects should fund that portion of levee erosion caused by water transport and should continue programs that fund protection of Delta levees (R-7).

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The potential of methods to maintain the gate areas (dredging, etc.) to degrade water quality through sediment suspension should be analyzed and addressed. DPC-5

Potential impacts of the project to increase salinity intrusion should be identified and analyzed.

Recreation and Access

Government entities shall improve public safety on Delta waterways through enforcement of local, state and federal laws (P-4). DPC-6

Government entities should include appropriate recreation and/or public access components to the extent consistent with project purposes and with available funding. Consideration should be given to private or user group improvements on public-owned lands to provide facilities (R-6).

Government entities should develop design guidelines for new or enlarged facilities utilized by recreational users to protect adjacent agricultural land uses (R-7).

Government entities should develop funding sources to provide adequate enforcement of existing laws to protect health, safety and welfare of Delta recreational users (R-8).

Gate dimensions should take into consideration the size and configuration of vessels (including houseboats) historically, or potentially, frequenting the sites.

Provisions for recreational user amenities, such as public restrooms should be addressed as relates to additional delays in travel and navigation as a result of gate operations.

The jurisdiction of the State Lands Commission, as it relates to navigation and public trust, as well as fee interest should be taken into consideration in the determination of gate configuration and placement as it relates to navigability constraints.

Marine Patrol, Boater Education and Safety Programs

Government entities that have or plan to have marine patrols shall possess adequate marine patrol equipment to ensure communication with other county marine patrols, with state patrols on Delta waters, and with the Coast Guard (P-1). DPC-7

Government entities that have marine patrols shall notify the Coast Guard when and where patrols are on the water (P-2).

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Government entities that have marine patrol units shall participate in at least one Coast Guard or Delta Protection Commission sponsored meeting per year to coordinate with other Delta law enforcement programs, to develop strategies for effective control, to discuss new laws and programs, and to generally increase effectiveness and communication between the various marine patrol programs (P-3). DPC-7

Government entities that have or plan to have marine patrol programs shall provide adequate levels of marine patrol to ensure public health and safety on the waters of the Delta, taking into account funding available and the number of vessels moored in the Delta, launched into the Delta, and which travel into the Delta (P-8).

Any potential of impacts to the economic viability of existing marinas or boat launching facilities should be analyzed and addressed. DPC-8

The communication systems of volunteer emergency response groups should be taken into consideration. DPC-9

Thank you for the opportunity to comment. It should again be noted that these comments apply only to the structure phase and not the operational phase based on staff's understanding that there will be the opportunity to comment on the operations through a separate process.

A copy of the Management Plan and the Act are available at the Commission's web site www.delta.ca.gov for your reference in considering the comments provided herein. Please contact me at (916) 776-2292 or lindadpc@citlink.net if you have any questions regarding the Commission or the comments provided herein.

Sincerely,

Linda Fiack

Linda Fiack
Executive Director

Responses to Comments

DPC-1

The SDIP includes several measures to avoid, minimize and compensate for the effects on the environment. The SDIP is consistent with the management plan policies and recommendations of the Delta Protection Commission (DPC). Throughout the development of the EIS/EIR, DWR and Reclamation have solicited input from many resource agencies, local agencies, and the public. This input has been used to design the SDIP to ensure maximum environmental benefits while achieving SDIP objectives.

It is not expected that the project would result in changes in the distribution or abundance of aquatic weeds. **However, operation of the permanent gates, compared to the temporary barriers, may result in the changes in timing of spraying for invasive weeds. BOs issued to the DBW include allowance for spraying compatible with the expected operation of the gates.**

During construction, equipment used to construct the gates and dredge could catch aquatic weeds. An environmental commitment has been added to Chapter 2 of the SDIP Draft EIS/EIR that requires the contractor to clean vegetation from equipment on a periodic basis to reduce the potential for spreading nonnative aquatic vegetation.

DPC-2

The SDIP permanent gate boat locks would be operated to allow boats passage in a reasonable amount of time. Although commercial vessels generally do not use the channels where the gates would be constructed, if commercial vehicles need to use the boat locks, they will be given priority over recreational boats. **Emergency response vessels would be given highest priority. The time it takes for an emergency vessel to cross the permanent gate compared to the time it takes for it to cross the temporary barriers, is similar. It is not expected that the permanent gates would affect emergency response times while the gates are being operated. However, when the permanent gates are open, the response times for emergency vessels would be shortened because the vessels would not have to use a boat lock or a trailer.**

As described in the SDIP Draft EIS/EIR, the spoil material will either be applied to farmland or used for levee reinforcement, as long as it is nontoxic and suitable for such uses (see the Environmental Commitments section described in Chapter 2 of the SDIP Draft EIS/EIR). Dredging and construction of the gates will not result in any changes to levee stability. Dredging would be confined to the center channel so as not to disrupt the levee or vegetation along the banks. Operation of the SDIP is not expected to decrease levee stability or interfere with levee maintenance. Riprap would be placed adjacent to the gate sites to ensure that the levee is not eroded at the gates. Changes in velocities in south Delta

channels are not expected to result in scouring or seepage that would contribute to a reduction in levee stability. Maintenance of the gates would not interfere with the maintenance of levees.

The SDIP is consistent with the management plan policies and recommendations of the DPC. Throughout the development of the EIS/EIR, DWR and Reclamation have solicited input from many resource agencies, local agencies, and the public. This input has been used to design the SDIP. The EIS/EIR addresses issues related to dredging, gate operation, and effects on levee maintenance and stability.

DPC-3

If spoil materials are applied to farmland in the south Delta, the materials will be used to raise the ground level of farmland where subsidence has occurred.

In developing the SDIP Draft EIS/EIR, DWR and Reclamation consulted with Coast Guard staff regarding emergency response during the construction period. Chapter 2 of the SDIP Draft EIS/EIR describes the Emergency Access Plan. During operation of the gates, it is not expected that response times would be substantially different than under existing conditions.

The location of each gate is based on the performance of the gates relative to the project objectives. Besides the head of Old River fish control gate, the SDIP permanent gates are located in areas where minimal development is expected to occur. None of the gates, however, is expected to significantly affect development in the Delta or use of Delta channels by boaters. **The head of Old River gate would include a boat lock that would ensure boaters could get between the south Delta and the San Joaquin River.** The SDIP is consistent with the management plan policies and recommendations of the DPC. Throughout the development of the EIS/EIR, DWR and Reclamation have solicited input from many resource agencies, local agencies, and the public. This input has been used to design the SDIP to ensure minimal impacts on emergency response times, subsidence, and development.

DPC-4

The SDIP is designed to improve water supply conditions for agricultural diversions in the south Delta. As such, it is consistent with the management plan policies and recommendations of the DPC.

DPC-5

The impacts of maintenance activities are described in the SDIP Draft EIS/EIR. No impacts beyond what would occur during initial dredging would occur during

maintenance dredging and other activities. Section 5.3 shows that there would be very little effect from SDIP Stage 2 alternatives on salinity intrusion into the Delta because the SDIP would operate in compliance with D-1641 EC and outflow objectives, which generally control salinity intrusion. The SDIP is consistent with the management plan policies and recommendations of the DPC. Throughout the development of the EIS/EIR, DWR and Reclamation have solicited input from many resource agencies, local agencies, and the public. To the extent feasible, this input has been used to design the SDIP.

DPC-6

The boat locks are designed to pass multiple large boats. Past boat surveys have not indicated uses for very large boats that would not fit in the proposed boat locks, which measure 60 feet long by 20 feet wide. DWR's personnel performed a study that determined the proposed locks would pass all Delta rental houseboats except for one very large houseboat 65 feet long. (McQuirk pers. comm.)

The SDIP now includes restrooms and trashcans to accommodate boaters at the boatlocks. The State Lands Commission (SLC) submitted comments on the SDIP Draft EIS/EIR, and an MOU between SLC and DWR will be executed. **Public access to areas in the south Delta is not expected to change, except that there will be no public access to the gates, control structures, storage areas, and other structures appurtenant to the gates.**

The SDIP is consistent with the management plan policies and recommendations of the DPC. Throughout the development of the EIS/EIR, DWR and Reclamation have solicited input from many resource agencies, local agencies, and the public. This input has been used to design the SDIP, including facilities and components that will maintain or enhance recreation in the Delta.

DPC-7

No marine patrol program is included in the SDIP. The SDIP is consistent with the management plan policies and recommendations of the DPC. Throughout the development of the EIS/EIR, DWR and Reclamation have solicited input from many resource agencies, local agencies, and the public. This input has been used to design the SDIP to ensure the public safety is maintained and that current marine patrol operations are not affected.

DPC-8

Boating opportunities in the affected waterways will be maintained. Thus, little change in business activity among existing marinas and boat launching facilities is expected. However, as described in Chapter 2 of the SDIP Draft EIS/EIR, if the permanent gates adversely affect any specific marinas in the area, DWR and

Reclamation will work with the marina owner(s) to reduce and compensate for those adverse effects.

DPC-9

The communication systems that will be installed to operate the gates are not expected to conflict with other communications systems with the south Delta area. If it is determined that closer coordination of gate operations with volunteer emergency responders is needed, DWR and Reclamation will meet with the interested parties to develop the required procedures.

Comment Letter DSOD

State of California — The Resources Agency

Memorandum — **DSOD**

Date: DEC 13 2005 — DEC 29 2005 — 037

To: Paul Marshall
South Delta Branch
Bay-Delta Office

From: David A. Gutierrez, Chief
Division of Safety of Dams
Department of Water Resources

Subject: South Delta Improvement Program, Draft Environmental Statement/ Environmental Impact Report

The Division of Safety of Dams has reviewed the Draft Environmental Statement/ Environmental Impact Report, submitted by letter dated November 10, 2005.

Based on the information provided, we find that the control structures to replace temporary rock barriers that have been constructed and removed annually in the past are not subject to State jurisdiction for dam safety. Therefore, an application for the proposed program is not required by the Division. **DSOD-1**

If you have any questions, you may contact Office Engineer Chuck Wong at (916) 227-4601 or Regional Engineer Michael Waggoner at (916) 227-4604.

cc: Ms. Nadell Gayou
Resources Agency Project Coordinator
Environmental Review Section, DPLA
901 P Street
Sacramento, California 95814

SURNAME
DWR 155 (Rev 11/01) KBWong 11/30/05 12/2/05 12/7/05

Responses to Comments

DSOD-1

DWR and Reclamation understand that the proposed permanent operable gates are not subject to the Division of Safety of Dams jurisdiction, and will not submit an application.

Comment Letter KMC

P.O. BOX 942849
SACRAMENTO, CA 94249-0032
(916) 319-2032
FAX (916) 319-2132

E-MAIL
assemblymember.mccarthy@assembly.ca.gov

Assembly
California Legislature

KEVIN McCARTHY
ASSEMBLY REPUBLICAN LEADER
THIRTY-SECOND DISTRICT

DISTRICT OFFICE
4900 CALIFORNIA AVE., SUITE 140A
BAKERSFIELD, CA 93309
(661) 395-2995
FAX (661) 395-3883

WEBSITE
http://www.assembly.ca.gov/mccarthy

KMC

February 14, 2006

Mr. Lester Snow
Director
Department of Water Resources
P.O. Box 942836
Sacramento, CA 94236-0001

RE: South Delta Improvements Program

Dear Director Snow:

I write to support the Department of Water Resources' (DWR) South Delta Improvements Program (SDIP).

The DWR is to be commended for issuing the EIR/S and for the many public workshops and public hearings it held to educate the public about the project. As with all public works projects, the input of the public is central to a good decision. I urge you to appropriately consider the comments you received during the public comment period and then certify the EIR/S.

KMC-1

The SDIP has been studied, re-studied, formulated and re-formulated for more than 20 years. Its inclusion in the CALFED Record of Decision was intended to stop the years of indecision and instead to provide a clear path toward ecosystem restoration and increased water supplies based largely on the SDIP.

The recent attention to the decline of pelagic species in the Delta should be used to inform decisions about the SDIP, but should not preclude the decision to certify the EIS/R and move forward to construct the permanent operable gates called for in Stage 1 of the EIS/R. It is unlikely that DWR or the Department of Fish and Game will have "perfect knowledge" about the causes of the decline in pelagic species. The lack of "perfect knowledge" will always exist and should not stop DWR from implementing the SDIP; a project that can allow for a 3-5 percent increase in supplies and still provide new system flexibility to meet environmental challenges.

Control # 2006-0052 (J. Johns) Call-Up Date 03/03/2006

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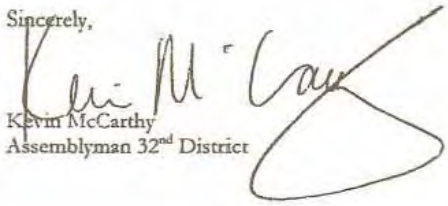
KMC-1
cont'd

At a time when California is confronting its inadequate levee systems, flood control and emergency management, and long-term infrastructure investments in the Delta, the SDIP is an ideal option for California to pursue now. It will not require the building of a major new project and funding for the program has already been secured through passage of voter approved bonds in 2000 (Proposition 13).

I support the SDIP and urge you to move forward with the project with all appropriate speed.

Thank you.

Sincerely,



Kevin McCarthy
Assemblyman 32nd District

cc Hon. Governor Arnold Schwarzenegger
Mr. Ryan Brodderick, Director, California Department of Fish and Game
Mr. Mike Chrisman, Secretary, California Resources Agency
Mr. Joe Grindstaff, Director, California Bay-Delta Authority
Mr. Kirk Rodgers, Regional Director, Mid-Pacific Region, U.S. Bureau of Reclamation
Mr. Dan Skopec, Deputy Cabinet Secretary, Office of the Governor
Mr. Terry Tamminen, Special Advisor to the Governor on Environmental Policy, Office of the Governor

Response to Comment

KMC-1

The commenter's description of the project's benefits and support for the project are noted.